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September 13, 1999

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
Portals II Building  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: Ex Parte Presentation in Application of SBC  
Communications, Inc. and Ameritech Corporation for  
Consent to Transfer Control of Certain Licenses and  
Authorizations, CC Docket No. 98-141

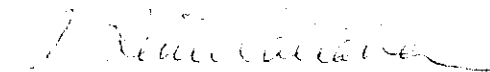
Dear Ms. Salas:

On Friday, Leon Kestenbaum, Sue Blumenfeld, and Renée Callahan, representatives of Sprint Communications Company L.P., met with Dorothy Attwood, Legal Advisor to Chairman William E. Kennard, and Linda Kinney, Legal Advisor to Commissioner Susan Ness, in connection with the above-referenced application.

Today, Craig Dingwall, Sue Blumenfeld, and Renée Callahan, again representing Sprint, met with William Bailey, Legal Advisor to Commissioner Harold Furchtgott-Roth regarding the application. The purpose of these meetings was to discuss the Applicants' proposed merger conditions; the substance of those discussions is reflected in the attached submission.

In accordance with the Commission's rules, 47 C.F.R. § 1.1206, I am filing the original and one copy of this letter. Please let me know if you have any questions.

Sincerely,



A. Renée Callahan

Attachment

cc (by hand): Robert Atkinson  
William Dever  
Michael Kende  
Thomas Krattenmaker  
Johanna Mikes

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The various sets of conditions proposed by SBC and Ameritech cannot ameliorate the severe competitive problems posed by their merger. In each iteration, SBC has undertaken to define its own regulatory obligations, and the end product reflects precisely that. The proposals fail to meaningfully commit SBC to undertake any task that it wasn't already willing or obligated to do; in many cases the proposed language indeed fails to meet existing regulatory requirements.

These problems were fully documented in July in the public round of comments on the initial SBC proposal. The revised set of proposed conditions submitted on August 27 contained almost no improvement. In some instances, "clarification" by SBC of earlier ambiguities simply confirms one's worst suspicions of anticompetitive effects. A similar overall lack of progress is reflected in the most recent September 7 rewrite regarding the advanced services "separate" affiliate proposal.

The Commission must not default its regulatory responsibility to the firms it regulates; the agency should move promptly to craft its own conditions -- with its own authorship -- or else designate the application for hearing. While the following is by no means a complete catalog of the flaws in the SBC document, it briefly highlights Sprint's most pressing concerns.

**The Advanced Services Proposals Will Preclude a Competitive Market for These Services.**

***Access to Loop Information***

- Discriminatory access to loop data is allowed.

- Access to loop information is needlessly delayed and impaired, giving SBC and its affiliates substantial lead time advantages based solely on monopoly position.

### ***Separate Subsidiary Structure***

- The condition would prejudice the FCC's pending proceeding on this very issue; it would also by necessity preempt state jurisdiction notwithstanding nominal disclaimers to the contrary.
- The degree of separation is wholly inadequate and inconsistent with section 272.
- There is inadequate and discriminatory separation of physical assets and key functions, including customer care, billing and collection, inbound marketing, among others, extending monopoly advantages into advanced services area.
- Even if separation were deemed an effective regulatory structure, its initial implementation is unnecessarily delayed and its expiration unwisely automatic.

### ***Line Sharing***

- There is no commitment to provide line sharing at all.
- The proposed conditions would restrict the availability of discount loops for CLECs providing advanced services ("surrogate line sharing charges") so that CLECs must promise to not compete for voice services.

### ***Loop Conditioning Charges***

- The revised proposal drops the earlier proposed specific and excessive interim rates, but fails to address the anticompetitive rates SBC and Ameritech have been quoting throughout their states. TELRIC does not allow for any cost recovery here for lines under 18,000 feet.

### ***Advanced Services OSS***

- SBC's "commitment" to provide non-discriminatory access to pre-order interfaces is limited in a number of ways: it does not start until 6 months after closing; and it allows SBC to opt between providing CLECs the same access used by SBC/Ameritech's retail operations to obtain theoretical local loop length information, or in the alternative, SBC/Ameritech's retail operations shall be required to

use the same Datagate and/or Verigate pre-order interfaces that are available to CLECs to obtain that loop information.

- Enhancements necessary to give truly non-discriminatory and useful access are not required until, at the earliest, 14 months, and these are to be developed in any event pursuant to the same skewed procedures and timeframes found in SBC's more general OSS provisions.

**The Proposal Will Not Provide for UNE/UNE Platform Availability.**

- The limits on the availability of UNE loop discounts remain problematic; the critical issue is whether loop and other UNE rates are indeed TELRIC rates.
- SBC continues to materially limit CLEC UNE access rights by committing only to the status quo, *i.e.*, to make available in each of the SBC/Ameritech states the UNEs or combinations of UNEs that were available in that state under SBC's or Ameritech's local interconnection agreements as of 1/24/99. The result, *inter alia*, is to deny the availability of UNE-P.

**The Proposed MFN Provisions Make a Mockery of "Best Practices."**

- In-region arrangements are still limited to post-merger negotiated provisions; tariffed terms and the Texas Proposed Interconnection Agreement are expressly excluded.
- For out-of-region agreements, the "obligation" applies only where the arrangement has not been previously made available to any other carrier by the out-of-region ILEC. The effect of this is to carve out any 252(i) elected terms.
- There is no reason to delay the availability of SBC's "generic" interconnection and resale terms and conditions to 60 days of the Merger closing; the Commission should satisfy itself today that the terms are reasonable.

**The Performance Measurements Are Inadequate and Undercut More Rigorous State Efforts.**

- The initial 20 measurements remain in large part the same and woefully short of readily available state models such as Texas and California.
- Timing of SBC's implementation obligation is complex and uncertain, and in any event, unnecessarily delayed to after closing.
- Performance measurements for advanced services are unidentified and uncertain.

**The Proposal Does Not Require Uniform and Enhanced OSS on a Prompt, Commercially Reasonable Basis.**

- SBC/Ameritech's revised OSS development and deployment proposals are substantively unchanged. There is no third party testing requirement.
- The deadlines for implementation remain hopelessly extended.
- The process remains skewed in SBC's favor.

**The Collocation Compliance Proposal Merely Commits SBC to its Existing Obligations.**

- SBC's offer to forego collection nonrecurring collocation costs where it mishandles "qualifying collocation projects" is hardly a concession. It is in any event inapplicable to situations in which SBC wrongfully denies collocation at an earlier stage.

**The Proposed Conditions Portend Illegal, Anticompetitive Effects on other Policies.**

- SBC purports to preserve state authority, but the language it uses in fact preserves only those state (and perhaps, federal) regulatory efforts that "are not inconsistent with these Conditions." The final conditions imposed by the Commission must not be construed to override more rigorous requirements, such as state-imposed merger conditions or orders subsequently adopted in pending or future proceedings.
- Section 271 language is unchanged.